

1 APPEARANCES (cont.):

2 MR. MARK L. GOLDSTEIN
3 3019 Province Circle
4 Mundelein, IL 60060
(847) 949-1340
for respondent.

5 ALSO PRESENT:

6 Monica Merino

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I N D E X

<u>Witnesses:</u>	<u>Direct</u>	<u>Cross</u>	<u>Re- direct</u>	<u>Re- cross</u>	<u>By Examiner</u>
None.					

E X H I B I T S

<u>Number</u>	<u>For Identification</u>	<u>In Evidence</u>
None.		

1 JUDGE HAYNES: Pursuant to the direction of the
2 Illinois Commerce Commission, I now call
3 Docket 10-0051. This is the complaint of Beverly
4 Carlson versus Commonwealth Edison Company, complaint
5 as to service in Harvard, Illinois.

6 May I have the appearances for the
7 record, please, starting with the complainant, name
8 and address, please.

9 MS. CARLSON: Beverly Carlson, 8106 Reese,
10 R-e-e-s-e, Road, Harvard, Illinois.

11 MR. GOLDSTEIN: On behalf of Commonwealth
12 Edison Company, Mark L. Goldstein, 3019 Province
13 Circle, Mundelein, Illinois, 60060. Telephone number
14 is (847) 949-1340. And I have with me today Monica
15 Merino of ComEd.

16 JUDGE HAYNES: Okay. Since the last time we
17 were together, there's been several filings here,
18 namely the motion to dismiss filed by the respondent.
19 And I think at this time that I'm going to have to
20 deny the motion to dismiss, and so I think that we
21 should go ahead and schedule the rest of this
22 proceeding because there's still a question here.

1 And I can't remember where we left off last time, if
2 parties had finished discovery. And was there
3 another filing? Was there a motion to compel in
4 there somewhere that was filed?

5 MR. GOLDSTEIN: There was no motion to compel,
6 Judge. There was, I believe -- and Ms. Carlson can
7 correct me obviously -- she filed an amended second
8 request for discovery.

9 JUDGE HAYNES: Oh, okay.

10 MR. GOLDSTEIN: I can say that with our reply
11 to her response to our motion to dismiss, I believe
12 we've provided her all the documentation we have that
13 related to her request for discovery.

14 JUDGE HAYNES: Okay.

15 MR. GOLDSTEIN: I may be wrong, but I think
16 that's correct.

17 MS. MERINO: That's correct.

18 MS. CARLSON: I have many items still
19 outstanding that Dan was going to look into.

20 JUDGE HAYNES: Oh, the ComEd employee.

21 I just think that at this point I
22 can't grant the motion to dismiss. However, if there

1 is not an outstanding motion to compel -- has the
2 company provided everything they have or...

3 MR. GOLDSTEIN: I think in relation to what has
4 been requested as part of discovery. If Ms. Carlson
5 will provide me a subsequent list of what she
6 believes Mr. Kowalewski promised her, I'll look into
7 it and see what I can do to provide that information
8 to her.

9 Perhaps it might be helpful, Judge,
10 since you're denying the motion to dismiss, if you
11 would care to narrow the issues for us so that when
12 we do go forward with the evidentiary hearing, we can
13 address those issues.

14 JUDGE HAYNES: And what part is not clear,
15 Mr. Goldstein?

16 MR. GOLDSTEIN: Well, you said that you denied
17 the motion but you haven't given any basis for it.
18 And I'd like to have some kind of basis for it.

19 Is there an issue of fact? And if
20 there is an issue of fact, what fact are you looking
21 to --

22 JUDGE HAYNES: Who is the owner?

1 MR. GOLDSTEIN: Well, I guess we've provided,
2 you know, every piece of information we have with
3 respect to the ownership of the poles in question,
4 and I don't know what else to provide. You're going
5 to see the same evidence, what we have, at an
6 evidentiary hearing. Obviously we're going to have
7 to have somebody go out there and be an eyeball
8 witness to all of that, I guess.

9 MS. CARLSON: There's been four people out
10 there already.

11 MR. GOLDSTEIN: How many more people can we
12 send?

13 MS. CARLSON: And I've gotten no reports from
14 them whatsoever, and that was one of my requests.
15 Actually, I didn't get the code for the maps; that
16 was number one, if you want to look at your request.

17 MR. GOLDSTEIN: Uh-huh.

18 MS. CARLSON: On No. 5 and 7, reports, orders
19 and findings from the initial phone calls back in
20 '08. There were reports filed. There were reports
21 done. There were findings done. There were orders
22 issued. I've never gotten copies of those.

1 No. 6 and 7 were actual orders to
2 accomplish my requests that were issued. I've never
3 seen copies of those. I've asked for a written
4 distribution and transmission definition. I have not
5 gotten that. And I've asked for any letters or
6 reports that were sent to me, and I've not gotten
7 those because there were none I don't think.

8 And then on my second amended request,
9 I asked for the history of the transformer dating
10 back to '62 including any inspections, any safety
11 issues, anything on that transformer that was done
12 from 1962. Anybody that came out to look at it to
13 make sure that it was in safe operating condition,
14 any maintenance that was done to it, I have not
15 gotten that either.

16 And if the Judge recommends me filing
17 a motion to compel, I can, but I deliberately did not
18 because I felt that it was going to be provided to
19 me.

20 MR. GOLDSTEIN: Well, what I'm suggesting,
21 Judge, is if she wants to stop short of the motion to
22 compel and put all this in writing and ask

1 specifically again what she is requesting -- I know
2 we had a session after the last status hearing where
3 we went over the various data requests that
4 Ms. Carlson did make. I guess we could look at that
5 again and see what we do have.

6 Obviously a lot of the information
7 that Ms. Carlson is seeking is or may be 48 years old
8 and I doubt that it's in ComEd's system.

9 MS. CARLSON: However all of the information
10 from '08 from my initial telephone call and all the
11 reports and findings and orders that were issued
12 certainly are available. And I feel that I don't
13 need -- I should not have to put this in writing
14 again. He's got a copy of my request to produce and
15 the second amended one, and I just told him the
16 numbers.

17 MR. GOLDSTEIN: So we'll look at 5, 6, 7 and 8
18 and the second amended request.

19 MS. CARLSON: And 1 and 12 and 13.

20 MR. GOLDSTEIN: 12 and 13 also?

21 MS. CARLSON: 1, 5, 7, 6, 12, 13 and the second
22 amended request.

1 MR. GOLDSTEIN: 1, 5, 6, 7, 12 and 13.

2 MS. CARLSON: 1, 5, 6, 7, 12, 13 and the second
3 amended request for the transformer information.

4 JUDGE HAYNES: Okay. So I assume the company
5 will attempt to provide whatever information they
6 have that is responsive to those data requests. And
7 if the parties aren't able to settle that or reach an
8 agreement that discovery has been satisfied, then you
9 would have to bring a motion to compel. But at this
10 point if there are outstanding data responses, the
11 company should respond.

12 And clearly because discovery is still
13 ongoing, we're not ready to go ahead with an
14 evidentiary hearing. So how about we schedule
15 another status hearing to make sure that discovery is
16 being completed.

17 MR. GOLDSTEIN: I think that's agreeable,
18 Judge. However, if we do come to some agreement with
19 respect to discovery in the meantime, if you set this
20 out perhaps 45 days, perhaps we can request, your
21 Honor, that the next time we do -- if all is in order
22 and we are ripe for evidentiary hearing -- that we do

1 have an evidentiary hearing the next time.

2 JUDGE HAYNES: Well, only if Ms. Carlson agrees

3 with that and everybody's on board.

4 MR. GOLDSTEIN: Yes, obviously.

5 JUDGE HAYNES: So then should we pick a date in

6 the middle of June? The week of the 14th?

7 MS. CARLSON: June 14th?

8 JUDGE HAYNES: The week of the 14th, any day.

9 MS. CARLSON: I didn't bring a calendar with

10 me. I'm sorry. It sounds good.

11 JUDGE HAYNES: Okay.

12 MS. CARLSON: I don't have anything --

13 MR. GOLDSTEIN: Perfectly fine with me.

14 MS. CARLSON: -- nothing planned that I can

15 think of right now.

16 JUDGE HAYNES: The 16th or 17th?

17 MR. GOLDSTEIN: Either day is fine with me.

18 JUDGE HAYNES: Would you like 11:00 o'clock?

19 MR. GOLDSTEIN: Yes.

20 MS. MERINO: On the 16th?

21 MR. GOLDSTEIN: Which day?

22 JUDGE HAYNES: No one has a preference? How

1 about June 17th at 11:00?

2 MS. CARLSON: June 17th.

3 MR. GORDON: That would be fine.

4 MR. GOLDSTEIN: That's fine, Judge.

5 JUDGE HAYNES: Okay. So I expect the company

6 to attempt to provide responses; and, if not, I'll

7 look for a motion to compel or I will just see you

8 again on June 17th.

9 MS. CARLSON: Can I bring up another issue that

10 was discussed last time?

11 MR. GORDON: Ask me.

12 MS. CARLSON: It was in the transcript about my

13 transformer and the arrestor. Dan said he was going

14 to have an engineer come out and look at it, and that

15 still has not been done. But, you know, I guess it's

16 not all that important. Who cares if electricity

17 goes through my house. For the record.

18 JUDGE HAYNES: I don't remember what you're

19 talking about. Is this a data request you're talking

20 about here?

21 MS. CARLSON: It was in the transcript. We

22 talked about it.

1 JUDGE HAYNES: Okay. And I don't remember. So
2 what was the question?

3 MS. CARLSON: I had a wire that came from the
4 arrestor that was disconnected to the transformer.
5 And this is a lightning arrestor.

6 JUDGE HAYNES: Oh, the lightning thing, uh-huh.

7 MS. CARLSON: Yes. And he said that he was
8 going to have an engineer come out and look. And I
9 even asked him if he could do it on the day that I
10 was off work which was a Monday and a Tuesday. But
11 nobody has ever contacted me about it. And I suppose
12 at this point we can let it go for a while.

13 JUDGE HAYNES: There's no harm in having the
14 company look into that as well.

15 MS. MERINO: Monday or Tuesday she's available?

16 MS. CARLSON: No. I was available on a Monday
17 or a Tuesday from our last hearing. I'm not right at
18 the present time.

19 MR. GORDON: Okay. Now, the --

20 JUDGE HAYNES: Can you please identify yourself
21 for the record.

22 MR. GORDON: My name is Robert Gordon. I'm the

1 attorney for the petitioner.

2 JUDGE HAYNES: Oh, really?

3 MR. GORDON: Yes.

4 JUDGE HAYNES: Have you filed an appearance in
5 this proceeding?

6 MR. GORDON: No. I don't know the procedure.
7 I haven't been before this Commission in decades. I
8 don't remember what the procedure is.

9 JUDGE HAYNES: Okay.

10 MR. GORDON: If there's such a thing as an
11 appearance form, I'll be happy to file one.

12 JUDGE HAYNES: Well, there is an appearance
13 form that you should file that should get to the
14 court reporter; however, you also have to file with
15 the Clerk's Office.

16 MR. GORDON: Okay.

17 JUDGE HAYNES: And as long as you intend to do
18 that, that's fine. Go ahead. I was unaware that you
19 had an attorney.

20 MR. GORDON: She works for me so --

21 JUDGE HAYNES: Okay.

22 MR. GORDON: -- I've been requested for

1 service.

2 JUDGE HAYNES: Okay. And so the arrestor, you

3 had a --

4 MR. GOLDSTEIN: Judge --

5 JUDGE HAYNES: Yes.

6 MR. GOLDSTEIN: -- you know, we're at a point,

7 you know, if Ms. Carlson is going to keep bringing up

8 various issues, I think she ought to put all this in

9 writing, perhaps file a motion to compel and we'll

10 respond to it.

11 MS. CARLSON: I'm not bringing up any more

12 issues. I just want to --

13 MR. GORDON: I don't think that's necessary.

14 If they want to send somebody to look, that's fine.

15 If they don't -- whatever the results are, they are.

16 MR. GOLDSTEIN: I'm sorry?

17 JUDGE HAYNES: Whatever the --

18 MR. GOLDSTEIN: I missed part of what

19 Mr. Gordon said.

20 MR. GORDON: I said, if you want to send

21 someone to look at it, fine; and, if not, whatever

22 happens will happen.

1 MR. GOLDSTEIN: Okay. I don't know what that
2 means, but okay.

3 JUDGE HAYNES: Okay. Is there anything
4 further?

5 MS. CARLSON: Are you saying that I need to
6 file a motion to compel?

7 MR. GORDON: She didn't say anything.

8 MS. CARLSON: Okay.

9 JUDGE HAYNES: That's because your attorney
10 that I wasn't aware of said that nothing was
11 required.

12 MS. CARLSON: Nothing was required for the --

13 JUDGE HAYNES: Arrestor.

14 MR. GORDON: Okay. Thank you, your Honor.

15 So June 17th at 11:00?

16 JUDGE HAYNES: June 17th at 11:00.

17 (Whereupon, the above-entitled
18 matter was continued to
19 June 17, 2010, at 11:00 a.m.)

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